

REMARKS

In claims 43-45, amended above, the term “HIF hydroxylase inhibitor” is replaced with the term “heterocyclic carbonyl glycine compound which inhibits a HIF hydroxylase” as discussed in the 26 January 2009 interview and in the current Office Action. Support for the term “heterocyclic carbonyl glycine” is found in the specification as filed, for example, at page 37, [0137]. Claim 46 is amended above to be consistent with the amendments to claims 43-45. Claim 47, as amended above, removes dependency from canceled claims. Support for new claims 49-56 is found in the specification as filed at page 37, [0139].

Applicants submit that no new matter is added by any of the above amendments and entry of these amendments is therefore respectfully requested. Applicants specifically reserve the right to file continuing applications directed to any canceled subject matter.

RESPONSE TO OFFICE ACTION

Rejection of claims 38-48 under 35 U.S.C. §112, 1st paragraph

The Examiner rejected claims 38-48 under 35 U.S.C. §112, 1st paragraph, for lack of enablement. In particular, the Examiner stated that “while being enabling for a method for treating diabetes in a diabetic subject, the method comprising administering to the subject an effective amount of a heterocyclic carbonyl glycine compound which inhibits HIF hydroxylase,...does not reasonably provide enablement for a method for treating diabetes...comprising administering...an effective amount of a HIF hydroxylase inhibitor....” (See Office Action, page 2.)

Claims 38-42 are canceled above; therefore, this rejection is moot as to these claims.

On 10 March 2009, Applicants filed a Supplemental Amendment and Summary of Examiner Interview which provided claim amendments reflecting that which was discussed during the in-person interview held on 26 January 2009. The claim amendments filed herewith correspond to the claim amendments filed in the Supplemental Amendment filed on 10 March 2009.

Claims 43-47, as amended above, recite that the method comprises “administering to the subject an effective amount of a heterocyclic carbonyl glycine compound which inhibits HIF hydroxylase.” Applicants submit that amended claims 43-47, and dependent claim 48, are enabled. Accordingly, withdrawal of the rejection of claims 38-48 under 35 U.S.C. §112, 1st paragraph, is respectfully requested.

CONCLUSION

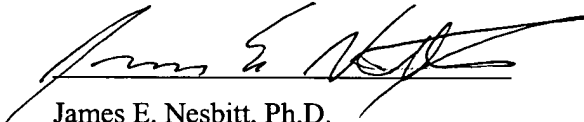
In view of the foregoing, Applicants submit that the claims are fully in condition for allowance and request notification to that effect.

The Commissioner is hereby authorized to charge any fees necessary in this communication to Deposit Account No. 50-0811, referencing Docket No. FP0602.1 US.

Please call Applicants' representative at 415-978-1744 with any questions regarding this communication or the above-identified application.

Respectfully submitted,

Date: 26 May 2009

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